



राजपत्र, हिमाचल प्रदेश (असाधारण)

हिमाचल प्रदेश शासन द्वारा प्रकाशित

शिमला, बीरवार, 28 सितम्बर, 1961/6 आश्विन, 1883

HIMACHAL PRADESH ADMINISTRATION

WELFARE DEPARTMENT

NOTIFICATION

Simla-4, the 21st September, 1961

No. 9-13/60-Wel.—In exercise of the powers conferred upon him by sub-sections (1) and (2) of section 17 of the Probation of Offenders Act, 1958 (No. 20 of 1958) the Lieutenant Governor, Himachal Pradesh, with the approval of the Central Government, hereby makes the following Rules, the same having been previously published, *vide* Himachal Pradesh Administration, Welfare Department's Notification No. 9-13/60-Wel., dated the 16th January, 1961, published in the Himachal Pradesh Rajpatra, Extraordinary, dated the 8th February, 1961, namely, "The Himachal Pradesh Probation of Offenders Rules, 1961."

By order,
T. S. NEGI,
Secretary.

THE HIMACHAL PRADESH PROBATION OF OFFENDERS RULES, 1961

I. PRELIMINARY

1. **Short title.**—(1) These rules may be called the Himachal Pradesh Probation of Offenders Rules, 1961.

(2) These rules shall apply to the whole of the Union Territory of Himachal Pradesh.

2. In these rules, unless the context otherwise requires:—

- (a) “Act” means the Probation of Offenders Act, 1958 (20 of 1958);
- (b) “Lieutenant Governor” means the Lieutenant Governor of the Union Territory of Himachal Pradesh.
- (c) “Chief Controlling Authority” means the officer appointed under rule 4;
- (d) “Form” means a form appended to these rules;
- (e) “Part-time Probation Officer” means a probation officer other than a salaried probation officer recognised by the Lieutenant Governor under section 13(1) (a) of the Act or provided by a society under section 13(1)(b) of the Act, who is remunerated by fees or honorarium and not by salary or who works without remuneration;
- (f) “Probation District” means a district or a bigger or smaller area as may be specified by the Lieutenant Governor;
- (g) “Probationer” means any offender in respect of whom a supervision order is in force;
- (h) “Salaried Probation Officer” means a whole-time probation officer appointed or recognised by the Lieutenant Governor under section 13(1)(a) of the Act or provided by a society under section 13(1)(b) of the Act who is remunerated by salary and not by fees or honorarium;
- (i) “Special Probation Officer” means a probation officer appointed by the court under section 13(1)(c) of the Act;
- (j) “Supervision Order” means an order passed under section 4(3) of the Act.

II. DEPARTMENTAL CONTROL OF PROBATION OFFICERS

3. **Probation Officers and their Control.**—(1) The Lieutenant Governor may appoint for each probation district such number of persons as he thinks fit to be probation officers for the purposes of the Act.

(2) All probation officers (whether appointed or recognised by the Lieutenant Governor) in each probation district shall be under the control of a probation officer specified by the Lieutenant Governor in this behalf and designated as District Probation Officer.

(3) All such probation officers in the Union Territory of Himachal Pradesh shall be under the control of the Chief Probation Officer to be appointed by the Lieutenant Governor.

4. The Lieutenant Governor may appoint one of the officers of Himachal Pradesh Administration to be the Chief Controlling Authority who shall exercise administrative control over all the Probation Officers, District Probation Officers and the Chief Probation Officer and shall perform such other

functions as may, from time to time be assigned to him by the Lieutenant Governor.

5. Chief Probation Officer.—Subject to the control and supervision of the Chief Controlling Authority, the Chief Probation Officer shall be responsible for administering the work of probation throughout the Union Territory of Himachal Pradesh and his duties and responsibilities shall include:—

- (a) control, guidance and supervision of the work of District Probation Officers and other Probation Officers;
- (b) assisting and fostering after-care work in the Union Territory of Himachal Pradesh and other activities for the purpose of rehabilitation of offenders, and maintaining contact with other related associations and the public;
- (c) submission of Statistical or other returns and reports, as required, to the Chief Controlling Authority; and
- (d) such other functions as may be assigned to him by the Lieutenant Governor or the Chief Controlling Authority.

6. (1) The headquarters of a District Probation Officer shall be the headquarters of the district or such other place as may be fixed by the Chief Controlling Authority. The jurisdiction of the District Probation Officer shall extend to the whole of the probation district in which he is posted.

(2) He shall:—

- (a) be responsible for the working of probation in the whole area within his jurisdiction;
- (b) control, guide and supervise the work of probation officers in the district;
- (c) submit to the Chief Probation Officer a half yearly report on the conduct and progress of all probationers in his jurisdiction, and reports of cases dealt with under section 9 of the Act;
- (d) submit to the Chief Controlling Authority the Chief Probation Officer, the District Magistrate and the court such other reports as may be specified by the Lieutenant Governor or the Chief Controlling Authority or the Chief Probation Officer; and
- (e) perform such other functions as may be assigned to him by the Chief Controlling Authority or the Chief Probation Officer.

7. Leave.—(1) Casual leave may be granted:—

- (a) to probation Officers employed by the Lieutenant Governor, at the headquarters of the Union Territory of Himachal Pradesh and to District Probation Officers, by the Chief Probation Officer; and
- (b) to any probation officer in a district, by the District Probation Officer.

(2) All other leave shall be granted to the probation officers by the Chief Controlling Authority.

III. PROBATION OFFICER QUALIFICATIONS FOR APPOINTMENT AND CONDITION FOR SERVICE

8. General attributes of Probation Officer.—While appointing probation officers, due regard shall be had to the following general attributes of a probation officer:—

- (a) adequate educational attainments;

- (b) good character and personality suitable for influencing persons placed under his supervision in two essential respects, viz., (a) conforming to law during the period of probation and (b) reformation of character and attitude to social behaviour, so as not to revert to crime;
- (c) maturity of age and experience; a probation officer in order to have independent charge of a probationer should not be less than 30 years of age; and
- (d) aptitude, zeal and a "calling" for probation work.

9. Qualifications of Salaried Probation Officers.—(a) Salaried probation officers shall be:—

- (i) graduates of recognised University.
- (ii) not less than 25 years and not more than 40 years of age at the time of first appointment (exclusive of periods of training);
- (b) a Salaried Probation Officer appointed by the Lieutenant Governor, shall possess other qualifications prescribed by the Lieutenant Governor for posts of similar status and responsibility;
- (c) every Salaried Probation Officer, before being entrusted with supervision of a "probationer", shall have received adequate training.

10. Qualifications of part-time Probation Officer.—A part-time probation officer appointed in a district shall be:—

- (a) not less than 30 years of age;
- (b) a resident of the district;
- (c) in a position to devote adequate time to supervision of probationers;
- (d) a person having sufficient practical experience in social welfare work or in teaching or in moulding of character; and
- (e) fully conversant with the Act and these rules.

11. Appointment and Registration of Probation Officers.—(1) The procedure relating to the appointment of probation officers by the Lieutenant Governor shall be in accordance with general rules relating to recruitment of officers to posts of similar status and responsibility.

(2) Names of individuals in different localities for recognition as part-time probation officers submitted by a society or by the District Magistrate or the Chief Probation Officer may be considered by the Lieutenant Governor.

(3) (a) The names of all probation officers recognised by the Lieutenant Governor with their addresses shall be entered in a register kept by the Chief Probation Officer.

(b) Lists containing the names of (i) probation officers appointed by the Lieutenant Governor; (ii) salaried probation officers provided by Societies; and (iii) part-time probation officers, for service, in the district or in specified areas of the district or allocated to specified courts in the district, shall be kept by the District Probation Officer and made available to the courts whenever necessary.

12. Special Probation Officer.—(1) The court may appoint a Special Probation Officer under section 13 (1) (c) of the Act in view of the special circumstances of a particular case, when no probation officer on the lists referred to in rule 11(3)(b) is available or is considered suitable enough to attend to the case. A court or a District Magistrate may also appoint a Special Probation Officer under section 13(2) of the Act.

(2) In deciding whether a person is suitable for appointment as a probation officer in a particular case, under section 13(1)(c) or section 13(2) of the Act, the court or the District Magistrate may take into consideration (a) the general attributes specified in rule 8 and the provisions of rule 13 (b) his age, position, character and attainments and relationship to the offender, and (c) his ability to follow these rules and to discharge the duties imposed on probation officers.

13. Choice of Probation Officers Precautions.—(1) Female probationers should not ordinarily be placed under the supervision or control of male probation officer.

(2) Religious persuasions of the probationer and the probation officer should be taken into consideration.

(3) While choosing a probation officer for supervision in a particular case, the court may, where necessary, consult the District Probation Officer.

14. Terms and conditions of Service.—(1) (a) Subject to the provisions of these rules, the general terms and conditions of service applicable to probation officers appointed by the Lieutenant Governor shall be the same as those prescribed for other officers of the Himachal Pradesh Administration of similar status and responsibility.

(b) Salaries allowances and other terms and conditions of service applicable to salaried probation officers appointed by a society shall be prescribed by the society in accordance with these rules and the instructions issued by the Lieutenant Governor or the Chief Controlling Authority under rule 23(3)(b).

(c) A part-time probation officer may be paid (i) a fixed remuneration with due regard to the nature and extent of the duties he is required to perform or (ii) an honorarium; or he may work without accepting any remuneration.

(d) A special probation officer may be paid, if the court so directs, remuneration or allowances for supervision, of probationers at rates similar to those prescribed for part-time probation officers.

2. (a) Every probation officer shall be furnished with an Identity Card in Form I. The Identity Card shall be used only when necessary in connection with his work and shall be returned to the Chief Probation Officer on suspension or termination of his appointment.

(b) Probation officers shall not wear any uniform or badge.

(3) A probation officer shall give at least three months' notice in writing if he wishes to resign his appointment. If a part-time probation officer is unable, owing to ill health or other cause, to perform his duties he shall at once report the fact to the District Probation Officer.

IV. PROBATION OFFICERS' DUTIES AND RESPONSIBILITIES

15. Departmental Responsibility.—Every probation officer shall carry out the directions of the Chief Controlling Authority and the Chief Probation Officer.

(2) Every probation officer shall inform the District Probation Officer, as soon as a probationer is placed under his supervision, of that fact and of the particulars with such other facts as may be prescribed by the Chief Probation Officer.

(3) Every probation officer shall submit:—

(a) to the District Probation Officer a monthly report on the progress of each probationer placed under his supervision (in form VII) and copies of pre-sentence report and of other report submitted to a court or District Magistrate; and

(b) to the Chief Probation Officer and the District Probation Officer such periodical reports and statistics as may be required.

16. Pre-sentence Report.—(1) For the purpose of section 14(a) of the Act, the probation officer shall, after making discreet inquiries regarding the offender's character and antecedents, his social and environmental conditions, the financial and other circumstances of his family, the circumstances in which the alleged offence was committed and any other facts which the court had directed him to enquire into, put down the relevant facts fully and faithfully in the report, as nearly as may be in Form III.

(2) The summary of the case shall include an objective statement of facts along with the probation officer's assessment of the case, so as to help the court in determining the most suitable method of dealing with the offender after he is found guilty.

(3) The report shall be treated as 'confidential' and delivered to the court on the date specified by it; it should be enclosed in a sealed cover, if sent to the court or delivered on a date prior to the date of delivery of judgement.

17. Supervision of probationers.—(1) The probation officer shall act as a friend and guide of the probationer. For this purpose, he shall, subject to any provision of the supervision order, required the probationer to report to him at stated intervals, meet him frequently and keep in close touch with him.

(2) At the first meeting the probation officer shall;

(a) explain to the probationer the conditions of the supervisions order;

(b) advise him as to how he should conduct himself; and

(c) specify the days on which he should report to the officer, the time and place of reporting being so arranged as to avoid unnecessary hardship to the probationer and to secure proper privacy; and inform the probationer that any omission on his part in so reporting will have to be satisfactorily accounted for.

(3) The probation officer shall visit the probationer periodically in his home surroundings and, where appropriate, his occupational environment, in order to see the progress made by the probationer and the difficulties, if any met with by him:

Provided that in the case of young offenders attending school or college, the probation officer shall not visit the probationer in the institution but may make discreet enquiries of the teacher or tutor or head of the institution regarding his attendance, conduct and progress, without prejudicing the probationer's interest in any way.

(4) The frequency of the meetings, including visits by the officer, should depend upon the conduct and mode of life of the probationer and upon the progress he is making. But the number of meetings should be, unless the court directs otherwise not less than:—

(a) once a week, during the first month;

(b) once a fortnight, during the rest of the first half of the period of probation; and

(c) once a month during the remaining period.

(5) The probation officer shall endeavour, by example, advice, persuasion and assistance and, where necessary, by warning, to ensure that (a) the probationer does not violate the conditions of the supervision order or commit any further offence and behaves in conformity with law and (b) his behaviour attitude to society, habits, character and morale improve, so that he may not revert to crime.

(6) The probation officer shall also take such action as he deems necessary for better regulation of the conduct and mode of life of the probationer or closer supervision over him.

18. Duties in relation to Courts.—(1) The probation officer may move the court before which the probationer is bound, to vary the conditions of the bond by way of tightening or relaxing them, as may be required by the conduct of the probationer.

(2) If the probation officer considers that the probationer has made sufficient progress and further supervision is not necessary, he shall make an application to the court for discharging the bond under section 8(3) of the Act.

(3) If a probationer fails to observe any of the conditions of the bond or behaves in a manner indicating that he is not likely to fulfil the purpose of the supervision order, the probation officer shall report the fact to the court or the District Magistrate for such action as may be considered necessary.

(4) The probation officer shall consult the District Probation Officer with regard to appeal or revision under section 11 of the Act.

19. Responsibilities in relation to District Magistrate.—The probation officer shall—

(1) carryout any directions that the District Magistrate or other officer not below the rank of a sub-divisional officer duly authorised by him to act on his behalf, may give regarding supervision of a probationer;

(2) submit such reports to the District Magistrate on the progress of probationers as may be required, as nearly as may be in Form VII;

(3) report to the District Magistrate:—

(a) cases where conditions of the supervision order or bond are not adhered to, which would include, *inter-alia*.

(i) the probationer changing his residence;

(ii) any fresh offence committed by the probationer;

(iii) any serious violation of the conditions of the supervision order; and

(iv) any plan of the probationer to abscond;

(b) any attempt by any person to aid or abet the probationer in commission of a crime or otherwise influence him so as to adversely affect his conduct and reformation; and

(c) the factors, if any, obstructing the rehabilitation of the probationer.

20. Rehabilitation and after care of Probationer.—(1) The probation officer shall assist the probationer's rehabilitation in society, so that he is not forced to revert to crime. For this purpose the probation officer shall endeavour to secure for the probationer—

(a) training facilities;

(b) employment opportunities;

(c) any necessary financial aid; and

(d) contacts and associations with normal individuals and congenial organisations like Boy Scouts and Girls Guides, Youth Organisations and Community Projects.

(2) The probation officer shall try to have constant touch with discharged probationers to follow up the progress made by them towards their rehabilitation for such periods as may be prescribed by the Chief Probation Officer.

(3) The probation officer shall participate, wherever possible in after-care schemes and organisations.

21. Other Duties of Probation Officer.—The probation officer shall also undertake the following functions:—

(1) educating the public and mobilising support for the probation system;

(2) mobilising public assistance and co-operation in the field of social defence;

(3) being in charge of any institution or other premises referred to in rule 31 that may be assigned; and

(4) any other duties of a cognate nature which may be assigned by order of the Lieutenant Governor.

22. Probation Officer not to divulge information.—A probation officer shall not divulge information concerning his inquiries or work of probation to any person other than the authorities to whom he is required to report, except in so far as it is necessary to do so in the interest of the probationer.

V. RE-COGNITION OF SOCIETY

23. (1) A society primarily devoted to any of the following kinds of work will be eligible for seeking recognition under clause (b) of sub-section (1) of section 13 of the Act;

(a) social defence, including care, aftercare or aid to offenders or discharged prisoners and protection and training of rescued or destitute women or children;

(b) education or other social welfare work; and

(c) religious or charitable work with interest in aiding and rehabilitating such persons as are mentioned in clause (a).

(2) Any society eligible under sub-rule (1) and desiring recognition shall make an application to the Lieutenant Governor together with a copy each of its rules, bye-laws, articles of association, list of its members and office bearers and a statement showing its status and past record of social or public service.

(3) The Lieutenant Governor may after making such inquiry as he considers necessary into the status, past record of social or public service and present conditions of the society, and satisfying himself that the society possesses sufficient financial means to carry out its obligations, grant recognition to the society, on condition that it shall undertake to—

(a) provide such probation officers as may be required by the Lieutenant Governor or the Court;

(b) abide by these rules and any instructions issued by the Lieutenant Governor and the Chief Controlling Authority and see that the same are followed by the probation officers and the personnel of

any institution or other premises referred to in rule 31 under it; and

(c) furnish to the Lieutenant Governor whenever required a statement of its financial position including the balance sheet and audited report, if any.

(4) The Lieutenant Governor may withdraw the recognition granted to a society under sub-rule (1) after giving a notice of three months to the society. The recognised society may also get its recognition withdrawn by the Lieutenant Governor after giving to him a notice of three months.

24. Subsidy to Society.—(1) A recognised society requiring a subsidy from the Lieutenant Governor in aid of its activities relating to probation shall forward to the Chief Controlling Authority through the Chief Probation Officer an application accompanied by a copy of—

(a) its rules regarding salaries, allowances and conditions of service of probation officers and its rules regarding the management of institutions or other premises referred to in rule 31, if any, under it; and

(b) such other particulars as may be required.

(2) The Lieutenant Governor may in deserving cases and on the recommendation of the Chief Controlling Authority pay to a recognised society such subsidy and for so long as he may deem fit.

(3) The society which has been granted a subsidy shall:—

(i) submit its annual report and audited accounts and such other reports as may be called for by the Chief Controlling Authority;

(ii) maintain standards of supervision work and manage institutions or other premises referred to in rule 31, if any, under it to the satisfaction of the Chief Controlling Authority; and (iii) provide all facilities for inspection by the officers concerned.

25. Control of Probation Officers.—(1) (a) If a probation officer appointed by a society fails to observe the duties imposed on him by the Act or these rules or to abide by other orders of the Lieutenant Governor or the Chief Controlling Authority or the Chief Probation Officer for regulation of the work and conduct of probation officers, the court or the District Magistrate or the District Probation Officer may report the fact to the society, and thereupon the society shall take suitable action on that report, and inform the District Probation Officer of the action taken.

(b) The society shall consider every complaint against such probation officer relating to any matter which affects his fitness for office and shall investigate every such complaint which in its opinion calls for investigation; and take further disciplinary action, wherever necessary.

(2) The work of probation officers provided by the society will be subject to guidance, supervision and control by the Chief Controlling Authority or any officer empowered by the Lieutenant Governor to act on his behalf.

VI. PROCEDURE FOR COURTS AND DISTRICT MAGISTRATE

26. A—Court Procedure.—(1) The court may direct a probation officer (as in Form II) to enquire into the character and antecedents of the accused, the circumstances in which the offence was committed, and other matters and submit a report on a prescribed date, which should ordinarily be the expected date of

delivering judgement. The court shall consult the report only after finding the accused guilty. If he is not found guilty, the report should be returned to the probation officer concerned for record for purposes of future reference.

(2) The court may direct the probation officer to make any further investigations, and, where required, to have a medical or psychiatric examination of the offender, and report to the court for enabling it to decide action to be taken under sections 3, 4, 5, 6 and 7 of the Act.

27. The following forms may be used for the purpose noted against each:—

- (a) Form IV-Bond for good behaviours under section 4(1) of the Act.
- (b) Form V-Supervision order under section 4(3) of the Act.
- (c) Form VI-Undertaking by probationer under section 4(4) of the Act.

28. The court may require a probation officer to submit a report on a stipulated date or periodical reports on the progress, conduct and mode of living of the probationer placed under his supervision for purposes of section 8 and 9 of the Act.

29. Where a court passes a supervision order under sub-section (3) of section 4 and appoints a probation officer provided by a society, it shall forward a copy of it to the society.

30. **B—Functions of District Magistrate.**—The District Magistrate or any other officer not below the rank of sub-divisional Magistrate duly authorised by him may:—

- (a) inspect the work and any record in the office of any probation officer working within his jurisdiction;
- (b) give any directions to probation officers that he considers to be immediately required for the due performance of their work relating to supervisions; and
- (c) send his observations or report on the foregoing or other facts to the Chief Probation Officer and District Probation Officer.

VII. RESIDENCE OF PROBATIONERS

31. **Institutions or other Premises for reception of Probationers.**—(1) The Lieutenant Governor, may maintain, or approve subject to such conditions (including conditions relating to management and inspection) as he may deem fit to impose any institution or other premises for the reception of probationers who may be required to reside therein by a supervision order.

(2) Any such institution or other premises shall be maintained, managed and inspected in accordance with such instructions as may be issued by the Lieutenant Governor from time to time.

32. **Residence of a Probationer in such Institutions or other Premises.**—(1) When a probation officer is of opinion that it is necessary or desirable for the probationer to reside in any institution or other premises referred to in rule 31 on the ground that the probationer has not fixed abode or no abode suitable for due supervision, or that his home surroundings are not suitable for achieving the objects of probation, or that the objects of probation would be better served by his staying in such institution or premises, the probationer may be asked to reside therein.

(2) A probationer may also be required to reside in any such institution or

premises in pursuance of any order of the court which passed the supervision order or in terms of the bond entered into by the probationers.

33. Change of Residence.—(1) Where a probationer under supervision, consistent with the conditions of the supervision order, changes or proposes to change his place or of residence and the place of such residence is outside the jurisdiction of the probation officer he shall obtain the permission of:—

- (a) the probation officer, if the period of such stay does not exceed a fortnight;
- (b) the District Magistrate on the recommendations of the probation officer, if such period exceeds a fortnight but does not exceed three months; or
- (c) the court on application made through the probation officer, if such period exceeds three months.

(2) Where the period of stay preferred to in sub-rule (1) exceeds a fortnight the probationer shall be required to report to a probation officer having jurisdiction in the changed place of residence on or before a specified date.

(3) The probation officer in the changed place of the residence shall send to the original probation officer a report of the arrival of the probationer and send copies of the report and such other reports as may required by the Chief Probation Officer to the District Magistrate or District Magistrates concerned and to the Chief Probation Officer.

(4) Where the period of stay referred to in sub-rule (1) exceeds one month, a new probation officer may be appointed under section 13(2) of the Act by the District Magistrate having jurisdiction over the changed place of residence or by the court.

VIII. RECORDS

34. Records to be maintained by Probation Officers.—(1) A probation officer shall maintain the following records:—

(a) A diary showing his day-to-day work, including preliminary enquiries, attendance at court, meetings with probationers, contacts with societies and visits to institutions and premises referred to in rule 31, a copy of the diary being submitted every week to the District Probation Officer;

(b) a file containing copies of all reports of preliminary inquiries submitted to the courts;

(c) a register showing the receipt and disposal of all orders of the courts to the probation officer for making enquiries;

(d) probationer's case file as in Form VIII containing—

(i) a front cover page indicating the main particulars of the probationer and the case;

(ii) a summary of the probationer's antecedents, character, his family and other environment and the circumstances of the offence, further progress of supervision and all other important events during the period of probation; and

(iii) copies of pre-sentence report, orders of court, bonds or undertakings, and all other records relating to him including a history sheet;

(e) an Index Card, and a Chronological Register (as in Form IX) of probationers;